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Message Text

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INFO OCT-01 EUR-12 IO-10 ISO-00 OIC-02 AF-06 ARA-06 EA-06

NEA-09 CIAE-00 DODE-00 PM-03 H-02 INR-07 NSAE-00

NSC-05 PA-01 PRS-01 SP-02 SS-15 USIA-06 CPR-01 OC-05

CCO-00 /102 W
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P 101723Z MAR 75
FM AMEMBASSY VIENNA
TO SECSTATE WASHDC PRIORITY 5047
INFO USUN NEW YORK PRIORITY 3011
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EO 11652: N/A
TAGS: PORG, AORG, PDIP, UN, AU
SUBJ: UN CONFERENCE ON THE REPRESENTATION OF STATES IN THEIR RELATIONS WITH INTERNATIONAL ORGANIZATIONS (RSIO)

REF: STATE 50529

SUMMARY. AS DETAILED REPORTING HAS DEMONSTRATED, CONFERENCE HAS AS EXPECTED TAKEN NUMEROUS IMPORTANT DECISIONS WHICH HAVE BEEN AT VARIANCE WITH US POSITIONS. ADDITIONALLY USDEL BELIEVES THAT THE FEW FAVORABLE DECISIONS WE HAVE OBTAINED MAY BE LOST IN PLENARY WHERE 2/3 VOTE IS NECESSARY. IN GENERAL, USDEL BELIEVES THAT FINAL TEXT CONVENTION WILL BE UNACCEPTABLE. ACCORDINGLY, DURING PLENARY USDEL PLANS REPEAT ITS VOTING STANCE AGAINST UNACCEPTABLE PORVISIONS AND DOES NOT RECOMMEND AFFIRMATIVE REPEAT AFFIRMATIVE VOTE ON CONVENTION AS A WHOLE IN PLENARY. USDEL ALSO BELIEVES IT MAY BE APPROPRIATE TO VOTE NO REPEAT NO ON ENTRY INTO FORCE CLAUSE. WHILE USDEL INTENDS SIGN FINAL ACT, CLEARLY USDEL DOES NOT REPEAT NOT RECOMMEND SIGNATURE
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OF CONVENTION. END SUMMARY.

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1. FOLLOWING RESPONDS TO QUESTIONS ONE AND THREE OF REFTEL:

(A) ARTICLE 2: ARTICLE 2, SCOPE OF CONVENTION, CONTAINS PROVISO THAT HOST STATE MUST SPECIFY IO WHICH WILL BENEFIT FROM CONVENTION, AND IO MUST FORMALLY ACCEPT OBLIGATIONS OF CONVENTION. FORMER QUALIFICATION IS ESPECIALLY FAVORABLE TO HOST STATE. FYI, HOST STATE, EVEN AFTER IT HAS RATIFIED CONVENTION, COULD ARGUE THAT IT WOULD NOT MAKE CONVENTION APPLICABLE TO AN IO UNTIL VAST MAJORITY OF SENDING STATES MEMBERS OF THAT IO HAD ALSO RATIFIED. END FYI. IT SEEMS LIKELY SOVIET BLOC WILL ASK FOR SEPARATE VOTE ON ABOVE PARS OF ARTICLE 2, AND THAT THEY WILL BE DELETED. FYI, CONFERENCE ADOPTED ARTICLE 2 BEFORE LDCS AND SOVBLOC WERE FULLY GALVANIZED AS SENDING STATE BLOC. END FYI.

(B) ARTICLE 7 AND OTHER PROVISIONS CONCERNING PERMANENT OBSERVER MISSIONS (POMS): CONFERENCE HAS DECIDED, AT VARIANCE WITH ORIGINAL US POSITION, TO TREAT POMS LIKE PERMANENT MISSIONS. IN KEEPING WITH DEPT INSTRUCTIONS (STATE 32551) USDEL HAS NOT CONTINUED TO ARGUE DISTINCTION.

(C) ARTICLES 9, 43, C AND 75. ON ARTICLES 9 AND 75 USDEL AND WEOS MADE STRONG PITCH FOR PNG PROVISION. CONFERENCE REJECTED PNG PROPOSAL UK-CAN MODELLED ON VIENNA DIPLOMATIC, USDEL PROPOSAL MODELLED ON UN HEADQUARTERS AGREMENT, AS WELL AS REVISED UK PNG PROPOSAL SUBMITTED TO ARTICLE 75. HOWEVER, CONFERENCE ADOPTED AMBIGUOUS FRENCH LANGUAGE TO ARTICLE 75, AS FOLLOWS:

QUOTE. 4. NOTHING IN THIS ARTICLE SHALL BE CONSTRUED AS PROHIBITING THE HOST STATE FROM TAKING SUCH MEASURES AS ARE NECESSARY FOR ITS OWN PROTECTION. IN SUCH CASES, THE HOST STATE, WITHOUT PREJUDICE TO ARTICLES 81 AND 82, SHALL CONSULT IN AN APPROPRIATE MANNER THE SENDING STATE WITH A VIEW TO AVOIDING THAT THESE MEASURES SHOULD INFRINGE THE NORMAL FUNCTIONING OF THE MISSION OR DELEGATION. UNQUOTE.

FRENCH PROPOSAL WAS ORALLY AMENDED BY FRENCH DEL TO ADD SECOND SENTENCE AND WAS ADOPTED BY COMMITTEE IN STATE OF SOME CONFUSION BY VOTE OF 33 (US)-30-8. FRENCH LIMITED OFFICIAL USE

LANGUAGE, WHILE NOT SPECIFIC REFERENCE TO HOST STATE AUTHORITY WHICH USDEL WOULD PREFER, CAN BE FAVORABGQ INTERPRETED. IN ANY CASE, USDEL ANTICIPATES THERE WILL BE SEPARATE VOTE IN PLENARY ON FRENCH LANGUAGE, AND, IF SO, LANGUAGE WILL BE REJECTED.

(D) ARTICLE 36: THIS ARTICLE CONSTITUTES AN EX-PANSION OF P&I TO BE ENJOYED BY MEMBERS OF A MISSION OTHER THAT DIPLOMATIC PERSONNEL. EXPANSION DEALS PRI-

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MARILY WITH ADMINISTRATIVE AND TECHNICAL STAFF. THEY WOULD BE "PERSONALLY INVIOLABLE" AND IMMUNE FROM CRIMINAL JURISDICTION OF HOST STATE, AND THEIR PRIVATE RESIDENCES WOULD ENJOY THE SAME INVIOLABILITY AND PROTECTION AS PREMISES OF THE MISSION. USDEL VOTED AGAINST THIS PROVISION AND INTENDS REPEAT NEGATIVE STANCE IN PLENARY.

(E) ARTICLES 59, 60, 61 AND 67 REFLECT DECISION OF COMMITTEE TO TREAT DELEGATIONS IN MANNER IDENTICAL TO BILATERAL DIPLOMATIC MISSIONS. THIS IS EXPANSION OF CURRENT GENERAL CONVENTIONS AND DOMESTIC US LAW. THUS, UNDER ARTICLE 60, PRIVATE ACCOMMODATION (HOTEL ROOMS) OF DELS ARE INVIOLABLE, DELS (UNDER ART 61) ARE IMMUNE FROM CRIMINAL JURISDICTION OF HOST STATE AND UNDER 67 EXTENSIVE P&I WILL ALSO BE ENJOYED BY FAMILY MEMBERS OF DELS, AS WELL AS ADMINISTRATIVE AND TECHNICAL STAFF AND THEIR FAMILIES. USDEL OPPOSED THIS ARTICLE AND INTENDS OPPOSE AGAIN IN PLENARY.

(F) THE ANNEX (OBSERVER DELEGATIONS): THE ANNEX, WHICH THE COMMITTEE HAS DECIDED WILL FORM PART IV OF THE CONVENTION, IS ALMOST IDENTICAL TO PART III ON DELEGATIONS, AND THUS SHARES AT LEAST, THE SAME PROBLEMS OF PART III. IN ADDITION, USDEL OBJECTED TO METHOD OF WORK COMMITTEE ADOPTED IN CONSIDERATION OF ANNEX, NAMELY, DRAFTING MOST OF ITS PROVISIONS BEFORE COMMITTEE HAD DECIDED (OR PROPERLY DISCUSSED) THE INTENDED SCOPE OF THE ANNEX. USDEL STRONGLY OPPOSED THIS PROCEDURE AND EITHER ABSTAINED ON OR VOTED AGAINST PROVISIONS OF ANNEX. USDEL INTENDS REPEAT VOTIN STANCE IN PLENARY.

2. FOLLOWING RESPONDS TO QUESTION 2 REFTEL:

(A) CONFERENCE HAS NOT YET DECIDED QUESTION OF NLMS. NLM ISSUE HAS FORMALLY SURFACED IN FORM OF

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WORKING PAPER (A/CONF.67/L.1), SEPTEL, FOR PLENARY CONSIDERATION. WE UNDERSTAND THAT DRAFT RESOLUTION WILL BE ALSO CIRCULATED FOR PLENARY. COPY OF WHAT WE UNDERSTAND HAS BEEN GIVEN SECRETARIAL BY EGYPTIAN DEL TRANSMITTED SEPTEL.

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NSC-05 PA-01 PRS-01 SP-02 SS-15 USIA-06 CPR-01 OC-05

CCO-00 /102 W
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FM AMEMBASSY VIENNA
TO SECSTATE WASHDC PRIORITY 5048
INFO USUN NEW YORK PRIORITY 3012
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(B) ENTRY INTO FORCE CLAUSE: DUE TO SHORTNESS OF TIME, DRAFTING COMMITTEE WAS REQUESTED BY PLENARY TO PREPARE FIRST DRAFT OF TITLE, PREAMBLE AND FINAL CLAUSES, AND TO REPORT DIRECTLY TO PLENARY. USDEL, AS MEMBER DRAFTING COMMITTEE WORKING GROUP, AWARE THAT TENDENCY IS TO HAVE VERY SMALL NUMBER OF RATIFICATIONS NECESSARY FOR ENTRY INTO FORCE. IN FACT, SOVIET MEMBER WORKING GROUP INSISTS NUMBER NECESSARY MUST NOT EVEN BE RECOMMENDED BY DRAFTING COMMITTEE, BUT THAT PLENARY MUST FILL IN BLANK SPACE. IN PLENARY, COMBINATION OF EE FORCES AND ARABS (BECAUSE OF NLM QUESTION AND POSSIBLE ALLEGIANCE TO EL-ERIAN) WILL UNDOUBLTEDLY RESULT IN SMALL NUMBER OF RATIFICATIONS FOR ENTRY INTO FORCE, PERHAPS EVEN SMALLER THAT LAW OF TREATIES (35), AS WELL AS VIENNA DIPLOMATIC (22). USDEL INTENDS ASK FOR LARGE NUMBER (C.60) BECAUSE OF NATURE OF CONVENTION, THAT IS, UNLIKE VIENNA DIPLOMATIC, CONSULAR, LAW OF TREATIES AND SPECIAL MISSION CONVENTIONS WHICH DEAL ESSENTIALLY WITH BILATERAL RELATIONS, THIS CONVENTION DEALS WITH UNILATERAL RELATIONSHIP "OF A UNIVERSAL CHARACTER". THUS NO HOST STATE SHOULD FIND
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ITSELF HAVEING TO IMPLEMENT CONVENTION WITH RESPECT TO AN IO WHERE LESS THAN A MAJORITY OF STATES MEMBERS OF THAT IO HAVE UNDERTAKEN, BY RATIFICATION, THE OBLIGATIONS OF CONVENTION. ACCORDINGLY, USDEL IS INCLINED TO VOTE

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AGAINST ENTRY INTO FORCE CLAUSE IF NUMBER SELECTED
IS TOO LOW. USDEL WOULD CONSIDER 35 (LAW OF TREATIES)
AS ABSOLUTE MINIMUM. DEPT GUIDANCE REQUESTED.

3. WITH RESPECT TO QUESTION 4, REFTEL, USDEL BELIEVES
PRESENT TEXT CONVENTION HIGHLY UNFAVORABLE TO USG.
USDEL RECOMMENDS AGAINST SIGNATURE CONVENTION, AND
REQUESTS DEPT GUIDANCE WHETHER USDEL SHOULD ABSTAIN
OR VOTE AGAINST RPT AGAINST ADOPTION OF CONVENTION
AS A WHOLE IN PLENARY. ONLY FIRM INFO WE HAVE ON
OTHER WEOS IN THIS REGARD IS THAT CANADA WILL ABSTAIN
ON CONVENTION AS A WHOLE.

4. USDEL BELIEVES IT DESIRABLE TO DRAW DEPARTMENT'S
ATTENTION TO SOME OF MORE CONSTRUCTIVE CHANGES MADE
IN BASIC ILC TEXT BY COMMITTEE OF WHOLE; FOLLOWING
POSITIVE ELEMENTS HAVE BEEN INSERTED INTO BASIC ILC
TEXT DURING COMMITTEE SESSIONS (BY ORDR OF IMPORTANCE):

A. FRENCH AMENDMENT TO ARTICLE 75 (VIENNA 2011);
B. UK AMENDMENT TO PARA 1 OF ARTICLE 2 (VIENNA)
C. REVISED DEFINITION IN ART. 1 OF "PREMISES OF THE
DELEGATION" (SUBPARA 27) VIENNA 1692);
D. NEW ARTICLE 74 (BIS) (VIENNA 2012);
E. NEW ARTICLE 75 (BIS) (VIENNA 2012);
F. NEW PARA 2 OF ARTICLE 22 (VIENNA 1413) AND
ARTICLE 53 (VIENNA 1692);
G. REVISED THIRD SENTENCE PARA ONE OF ARTICLE 23
(VIENNA 1413) AND ARTICLE 54 (VIENNA 1692);
H. REVISION OF ARTICLE 15 (VIENNA 1413);
I. INCREASE IN ORGANIZATION ROLE IN ARTICLE 21
(VIENNA 1413) AND ARTICLE 52 (VIENNA 1692);
J. KUWAIT AMENDMENT ON POUCH INSPECTION IN ARTICLE 27
(VIENNA 1542);
K. UK AMENDMENT TO ARTICLE 30 (VIENNA 1542);
L. ADDED SENTENCE PARA ONE ARTICLE 31 (VIENNA 1542) AND
ARTICLE 62 (VIENNA 1893);
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M. AMENDMENTS TO ARTICLE 41 (1542);
N. CANADIAN AMENDMENT TO ARTICLE 64 (VIENNA 1893);
O. SWISS REVISION OF TIME FRAME OF ARTICLES 81 AND
82 (VIENNA 2012).

IN ADDITION TO THE ABOVE MAJOR AND, MORE OFTEN,
MINOR POSITIVE CHANGES IN TEXT, WE ATTACH PARTICULAR
IMPORTANCE TO RETENTION OF ILC TEXT OF ARTICLE 4.
MOWINCKEL

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